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DISTRICT OF NEVADA	
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6 UNITED STATES DISTRICT COURT  
7  
8 DISTRICT OF NEVADA

9 JUDY KROSHUS, et al.,

Case No: 3:09-cv-00713-RCJ-RAM

10 Plaintiffs,

11 v.

12 UNITED STATES OF AMERICA, et al.,

13 Defendants.

**ORDER GRANTING MOTION FOR  
DETERMINATION OF GOOD  
FAITH SETTLEMENT**

14 Based upon Motion made by Defendant, KING CONSTRUCTION, INC., by and through its  
15 attorney, THOMAS MIRCZAK, ESQ., of CISNEROS CLAYSON & MARIAS, upon the papers and  
16 pleadings on file in this matter, and the hearing held thereon, the Court now enters its findings of facts,  
17 conclusions of law and judgment as follows:

- 19 1. This case arises from a breach of the Truckee Canal in Lyon County, Nevada, on  
20 January 5, 2008.
- 21 2. A Complaint for Damages was filed against numerous Defendants.
- 22 3. Plaintiffs are owners of residential property situated in Fernley, Nevada.
- 23 4. Plaintiffs claim that they suffered damages resulting from the flood waters that  
24 came from the breach of the Truckee Canal on January 5, 2008.
- 25 5. Plaintiffs allege that the January 5, 2008 flood in Fernley, Nevada was due to the  
26 inadequate maintenance and operation of the Canal, among other reasons. They  
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1 further assert that the flood consequences were "exacerbated" by the City of  
2 Fernley and the County of Lyon because of "intentional indifference" to  
3 requiring the contractors and builders of the residential subdivision to construct  
4 infrastructure that would minimize the damage caused by flooding in the event  
5 the floodwaters entered the subdivision where Plaintiffs' homes were located.

6 Plaintiffs also assert that the flood consequences were exacerbated by the "errors  
7 and omissions" in constructing various elements, including Rolling Meadows  
8 subdivision improvements, houses, Jenny's Lane crossing, and the "Knuckle" at  
9 Wrangler Road and Wagon Wheel, committed by the Defendants, as well as  
10 allegations of misrepresentations made on the sale of Rolling Meadows  
11 properties.

12 7. KING CONSTRUCTION, INC. was a subcontractor hired to complete  
13 excavation work at the Rolling Meadows subdivision. KING  
14 CONSTRUCTION, INC. also completed work at Jenny's Lane and the  
15 "Knuckle".

16 8. An amicable global settlement of this matter has been reached among the  
17 Plaintiffs and most parties to this case.

18 9. The Settlement Agreement provides that KING CONSTRUCTION, INC. shall  
19 pay the sum of \$162,500.00 in exchange for a complete release from the instant  
20 action and all pending actions as listed in the Motion.

21 10. KING CONSTRUCTION, INC. had insurance that provided coverage for any of  
22 the pending actions.

23 11. The amount paid by KING CONSTRUCTION, INC. will be allocated to the  
24 *Rondy* class pursuant to calculations to which KING CONSTRUCTION, INC.

was not in privy, but the sum paid is in consideration for the global settlement of all claims and is reasonable.

12. KING CONSTRUCTION, INC. continues as a viable business entity although its business has been drastically reduced because of the economic downturn.

13. There is no evidence or allegation that this settlement is fraudulently, collusively or tortuously aimed at injuring non-settling Defendants.

14. The Court grants approval of the Global Settlement Agreement.

15. The Court finds that the settlement agreement is made in good faith; and,

16 The matter is dismissed with prejudice as to all claims against KING  
CONSTRUCTION, INC.

IT IS SO ORDERED.

DATED: August 4, 2011.

  
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UNITED STATES MAGISTRATE JUDGE

Respectfully submitted by:

CISNEROS CLAYSON & MARIAS

/s/ Thomas Mirczak

THOMAS MIRCZAK, ESQ.

One E. First Street, Ste. 1400

Reno NV 89501

Attnorneys for Defendant

## KING CONSTRUCTION INC.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 3<sup>rd</sup> day of August, 2011, I caused copies of the foregoing document in accordance with Rule 5, to be served on all parties to this action via the U.S. District Court's e-filing (CM/ECF) system.

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16 **/s/ Vicky Cralle**  
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An Employee of CISNEROS CLAYSON & MARIAS  
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